

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: James J. Modliszewski, et al.

US Application No.: 10/824,860

Filing Date: April 14, 2004

Title: Homogeneous, Thermoreversible Gel Film Containing Kappa-2 Carrageenan and Soft Capsules Made Therefrom

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT COVER LETTER

Pursuant to 37 CFR § 1.56 and in accordance with 37 CFR §§ 1.97-1.98, attached is an Information Disclosure Statement relating to the above-identified application. A Notice of Allowance has been received in the present application dated June 2, 2010. This Information Disclosure Statement is being filed prior to payment of the issue fee in the above application. Accordingly, the following certification and fee authorization are provided. The references cited herein were cited in a recent search report in the European counterpart of USSN 10/824,919. As background, USSN 10/824,919 was included in an obviousness-type double patenting rejection in the present application. USSN 10/824,919 claims the same priority as the present case. Accordingly, the information cited herein is believed to have been cited in a counterpart application within the meaning of 37 CFR § 1.97(e). As a result, the certification made below is believed to be proper.

Attention is directed to US 2005/0106233 ("US '233;" corresponding to WO 03/084516 in the attached search report). While US '233 discloses a list of polysaccharides including kappa carrageenan, kappa-2 carrageenan, and iota carrageenan (e.g., see paragraph 31), there is no disclosure or suggestion of the processing advantages associated with kappa-2 carrageenan when compared with a physical mixture of kappa and iota carrageenan as set forth in the Declaration submitted November 16, 2009. As a result, the Examiner's reasons for allowance as set forth in the Notice of Allowance dated June 2, 2010 are believed to be unaffected. Consideration of this Information Disclosure Statement is respectfully requested.

Note – Complete only one of 1, 2 or 3 below

1. ☐ In accordance with § 1.97(b), this Information Disclosure Statement is being filed either:
- a) within three months of the filing date of the above-identified application,
 - b) within three months of the date of entry into the national stage of the above-identified application as set forth in § 1.491,
 - c) before the mailing date of a first Office Action on the merits of the above-identified application, or
 - d) before the mailing date of a first Office Action after the filing of a request for continued examination under § 1.114, and no additional fee or certification is required.
2. ☐ In accordance with § 1.97(c), this Information Disclosure Statement is being filed after the period set forth in § 1.97(b) above, but before the mailing date of either a Final Action under § 1.113 or a Notice of Allowance under § 1.311, or before an action that otherwise closes prosecution in the application, therefore:
- ☐ The following Certification in Accordance with § 1.97(e) is provided;

☐ a) "I hereby certify that each item of information contained in the Information Disclosure Statement filed herewith was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement."

OR

☐ b) "I hereby certify that no item of information in the Information Disclosure Statement filed herewith was cited in a communication from a foreign Patent Office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 CFR. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement."

OR

☐ the fee of \$180.00 as set forth in § 1.17(p) which should be charged to Deposit Account No 06-1440.

3. ☒ in accordance with § 1.97(d), this Information Disclosure Statement is being filed after the mailing date of either a Final Action under § 1.113 or a Notice of Allowance under § 1.311, but before, or simultaneously with, the payment of the Issue Fee; therefore, included are the following: Certification in Accordance with § 1.97(e); and the fee of \$180.00 as set forth in § 1.17(p).

☒ a) "I hereby certify that each item of information contained in the Information Disclosure Statement filed herewith was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement."

OR

☐ b) "I hereby certify that no item of information in the Information Disclosure Statement filed herewith was cited in a communication from a foreign Patent Office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 CFR. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement."

AND

☒ The fee of \$180.00 as set forth in § 1.17 which should be charged to Deposit Account No. 06-1440

4. ☐ Copies of the following which refer to at least one of the documents listed on the IDS are enclosed:

If foreign patents and non-patent literature references are listed on the attached forms PTO-SB08a and PTO-SB08b, copies are enclosed herewith. The Examiner is respectfully requested to consider the cited references, initial the forms and

return copies of such. Inclusion of information in this statement is not to be construed as an admission that this information is material as that term is defined in 37 CFR § 1.56(b).

Please charge any deficiency or credit any overpayment to Deposit Account No. 06-1440.

The Examiner is invited to contact the undersigned at the telephone number set forth below if the undersigned can be of any assistance in expediting the prosecution of this application.

Date: August 3, 2010



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